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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,768	10/11/2000	Jeff Schulz	FORE-77	7087
7590	12/14/2004		EXAMINER	
Ansel M. Schwartz One Sterling Plaza 201 N. Craig Street, Suite 304 Pittsburgh, PA 15213				PHAN, MAN U
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/686,768	SCHULZ, JEFF
	<b>Examiner</b>	<b>Art Unit</b>
	Man Phan	2665

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a)  The period for reply expires 3 months from the mailing date of the final rejection.
- b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.  A Notice of Appeal was filed on 08 November 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2.  The proposed amendment(s) will not be entered because:
  - (a)  they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b)  they raise the issue of new matter (see Note below);
  - (c)  they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d)  they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5.  The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached sheet.
6.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7.  For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: 5-10 and 15-19.

Claim(s) rejected: 1-4 and 11-14.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8.  The drawing correction filed on 10/11/2000 is a) approved or b) disapproved by the Examiner.

9.  Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s). \_\_\_\_\_.

10.  Other: \_\_\_\_\_

***Advisory Action***

1. The affidavit, exhibit or request for reconsideration has been considered but does not place the application in condition for allowance because:
2. Applicant asserts that there is no motivation to combine the prior art as proposed in the office action, Bianchini et al., and Dempsey, i.e. In response, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).
3. Applicant's arguments are not persuasive. It's the examiner's position that the reference is applied herein for the teaching of the switching both variable length packets and fixed length ATM cells using a segmentation function to convert a packet to cells and reassembly function to convert the packet to cells. Biachini teaches in Fig. 1 a block diagram illustrated packet striping in the switch. The switch includes an input port mechanism having a plurality of input ports each able to receive cells and packets from the network. The switch includes an output port mechanism having a plurality of output ports each able to send cells and packets to the network. The switch includes a switching fabric connected to the input port mechanism

and the output port mechanism for switching either packets or cells from any input port to any output port. The switch includes a mechanism for converting packets to cells when the input port is a packet port and the output port is a cell port and cells to packets when the input port is a cell port and the output port is a packet port, respectively, or not converting cells or packets when the input port and the output port are both cell ports or both packet ports, respectively. The converting mechanism is connected to the output port mechanism and the switching fabric (Col. 1; lines 39 plus and Col. 8, lines 13 plus). In the same field of endeavor, Dempsey (US#6,526,021) teaches the flow control structure for transporting synchronous optical network data more rapidly using an N terminal high speed transport system coupled between 1:N low speed transport systems (See Fig. 3 and the Abstract).

4. It is desired that a single switch supports bit pipes of different bandwidths. For example, the current ATM standard defines two rates, viz., 155 and 620 megabits per second or OC48/OC192. Thus, multi-rate switching allows the two rates can be simultaneously supported in a single switch. Here, a single group of allocated channels would provide information transport, with each channel providing information transport at a different multiple of a basic transfer rate. A switch would then be dynamically reconfigured, based upon each subscriber's needs, to support specific services therefor that occur at different transfer rates. In this regard, see, H. Ahmadi et al, "A Survey of Modern High-Performance Switching Techniques", IEEE Journal on Selected Areas in Communications, Vol. 7, No. 7, September 1989 pages 1091-1103 (hereinafter referred to as the Ahmadi et al publication); and J. J. Kulzer et al, "Statistical Switching Architectures for Future Services", International

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Switching Symposium ISS'84, Florence, Italy, May 7-11, 1984, Session 43A, paper 1, pages 1-5 (hereinafter referred to as the Kulzer et al publication).

The Examiner maintains that the references cited and applied in the last office actions for the rejection of the claims 1-19 are maintained in this office action. The final rejection mailed on August 06, 2004 is therefore maintained.

Mphan.

12/09/2004

*Man U. Phan*  
MAN U. PHAN  
PRIMARY EXAMINER